

Article - Health - General

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§15–904.

(a) The Department and the departments of Human Services and Aging shall designate appropriate representatives to participate in collective bargaining with the provider organization certified as the exclusive representative of independent home care providers.

(b) Except as otherwise provided in this subtitle, the parties shall adhere to the bargaining process set forth in § 3–501 of the State Personnel and Pensions Article.

(c) The State agencies specified in subsection (a) of this section that are engaged in bargaining shall negotiate, in consultation with the Department of Budget and Management, all matters that require appropriation of State funds.

(d) Collective bargaining shall include all matters relating to the terms and conditions of participation by independent home care providers in the provision of home care services under the programs specified in § 15–901(b) of this subtitle, including:

- (1) Reimbursement rates;
- (2) Benefits;
- (3) Payment procedures;
- (4) Contract grievance procedures;
- (5) Training;
- (6) Member dues deductions; and

(7) Other terms and conditions of participation by independent home care providers in the provision of home care services under the programs specified in § 15–901(b) of this subtitle.

(e) (1) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, collective bargaining may include negotiations relating to the right of a provider organization that is the exclusive representative to receive service fees from nonmembers.

(ii) The representatives of the State may not reach an agreement containing a service fee provision unless the representatives of the State conclude that the agreement as a whole will not adversely impact nonmember providers.

(iii) The representatives of the State may only agree to a service fee provision if the service fee provision would require nonmembers to pay service fees on a sliding scale in approximate proportion to the amount each nonmember receives in reimbursement through:

1. The Medicaid Waiver for Older Adults that is jointly administered by the Department and the Department of Aging as established under § 15–132 of this title, or any successor program;

2. The Medicaid Personal Care Program under the State Medical Assistance Program, or any successor program; and

3. The In–Home Aide Service Program administered by the Department of Human Services, or any successor program.

(2) An independent home care provider whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization:

(i) Is not required to pay a service fee; but

(ii) Shall pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish to the State agencies engaged in collective bargaining under this subtitle and the exclusive representative written proof of the payment.

(3) (i) An independent home care provider who provides home care services only to an immediate family member is not required to pay a service fee.

(ii) An independent home care provider who provides services to an immediate family member and any other individual who is not an immediate family member may be required to pay a service fee that is proportionate to the amount the provider receives in reimbursement for the provider’s services to any individual who is not an immediate family member.

(iii) An independent home care provider may be required to provide written documentation of the provision of home care services to an immediate family member.

(f) Notwithstanding subsection (d) of this section, the representatives of the State:

(1) May not be required to negotiate any matter that is inconsistent with applicable law; and

(2) May negotiate and reach agreement with regard to any matter that is inconsistent with applicable law only if it is understood that the agreement with respect to the matter cannot become effective unless the applicable law is amended by the General Assembly in a manner that eliminates inconsistency.

(g) (1) The parties shall reduce their agreement to a Memorandum of Understanding that complies with the provisions of § 3–601 of the State Personnel and Pensions Article.

(2) If the Memorandum of Understanding contains a service fee provision, before the vote to ratify the Memorandum of Understanding is held, the exclusive representative shall provide notice that the Memorandum of Understanding contains a provision for a service fee that will be charged on a sliding scale to independent home care providers.

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